REMARKS

Claims 1-43 have been rejected as being anticipated by Beckerdite. This rejection is respectfully traversed.

Beckerdite does not disclose or contemplate metallizing on the polyetheramine resin-containing layer. Applicants have shown that metallizing on the polyetheramine resin-containing layer unexpectedly shows substantial improvement in barrier properties. See results of Examples 1-3 versus those of Comparative Examples 1-3. Thus, Beckerdite not only fails to anticipate the claimed invention, but it also fails to establish a *prima facie* case of obviousness.

Applicants respectfully submit that the Examiner is required to consider the unexpected results disclosed in the specification in accordance with the position of the Federal Circuit in *In re Soni*, 34 USPQ 2d 1684, 1687-88 (Fed. Cir. 1995):

> Here, Soni's specification contains more than mere argument or conclusory statements; it contains specific data indicating improved properties. It also states that the improved properties provided by the claimed compositions "are much greater than would have been predicted given the difference in their molecular weights." . . .
>
> Mere improvement in properties does not always suffice to show unexpected results. In our view, however, when an applicant demonstrates substantially improved results, as Soni did here, and states that the results were unexpected, this should suffice to establish unexpected results in the absence of evidence to the contrary. Soni, who owed the PTO a duty of candor, made such a showing here. The PTO has not provided any persuasive basis to question Soni's comparative data and assertion that the demonstrated results were unexpected. Thus, we are persuaded that the Board's finding that Soni did not establish unexpected results is clearly erroneous.

Please note, "Consistent with the rule that all evidence of non-obviousness *must* be considered when assessing patentability, the PTO *must* consider comparative data in the

specification in determining whether the claimed invention provides unexpected results." *Id.* [Emphasis added]. Applicants recognize that the Examiner has not rejected any claims for obviousness. Yet, Applicants would like to bring the evidence of non-obviousness to the attention of the Examiner to prevent the possibility of a non-obviousness rejection and, therefore, to expedite the prosecution of this case.

If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **361752002900**.

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Respectfully submitted,

By _____

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